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NICHOLAS M. WARD-WILLIS
Principal Member
nward-willis@kblaw.com
Also Admitted in CT

November 9, 2018

VIA EMAIL *ludmer.margo@epa.gov*

Margo B. Ludmer, Esq.
Assistant Regional Counsel
New York/Caribbean Superfund Branch
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2

Re: Canadian Radium and Uranium Site

Dear Margo:

Thank you for meeting with our firm and our clients last week to discuss EPA's proposed investigation of our client's property. As discussed, my clients continue to agree to provide access to the EPA so it can conduct its investigation, but wish to have confirmation as to the terms upon which access will be granted, which such terms are requested so as to minimize the disturbance and interference with the existing tenant's operation on the property. As you are aware, the tenant is a car dealership that sells and services cars at the property.

To summarize, our client's grant of access includes the following:

- 1) That our client and the tenant be named as additional insured on the contractor's and any subcontractor's general liability and worker's compensation insurance and proof of same be provided in advance of work commencing.
- 2) The air canisters for the radon testing be installed and removed during the non-operating hours of the tenant. We previously provided you with the tenant's operating hours and it does not appear this request is onerous. For example, a 72 hour test could be implemented in such a manner that the canisters are installed on a Wednesday evening after 8:00 p.m. and collected on a Sunday morning before 11:00 a.m.

Margo B. Ludmer
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- 3) As it appears the gamma ray detector using the “buggy” could be performed in 2 to 3 hours, that work can be completed during overnight hours or even commence on a Sunday at 7:00 a.m. and be completed prior to the tenant’s operations commencing at 11:00 a.m.
- 4) Once the results of the radon and gamma survey testing are received and provided to our client, we can then discuss a schedule for installing the soil borings, should such additional work be necessary. We request the work be performed during overnight hours. Our client is agreeable to paying for and providing portable lights.

During our meeting, a concern was expressed that working at night is not as safe for EPA’s contractor. We disagree. No one disputes that night work occurs at construction sites and highways on a regular basis. We believe working at night is safer for EPA’s contractor and the tenant’s workers and customers. The property is an active automobile dealership where cars are serviced, sold, new vehicles delivered to customers and owners recharge their electric car. At any given time during the day, there are approximately 30 to 40 employees at the site, with an equal number of customers present. In addition to the pedestrian traffic of the employees and customers, cars are entering and exiting the site throughout the day. Employees move cars within the site to bring them into the service bays or to make room for customers to collect cars or receive new inventory.

The suggestion that working during the night is not safe, when customers and employees are not walking on the site and cars are not being driven onto and off the property, compared to working on an active site during the day is not credible. It appears the only reason EPA will not authorize the work to be performed off hours is due to money; not safety.

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Our client believes these accommodations are reasonable and should be made by EPA and do not interfere with EPA having access to our client's property. Our clients submit they have been extremely reasonable in trying to balance EPA's request for access with the needs of theirs and their tenant. We trust EPA will accommodate our request and accept the access that has been granted and I look forward to hearing from you. Thank you for your attention.

Very truly yours,



Nicholas M. Ward-Willis

NMW/sj



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

March 12, 2019

VIA ELECTRONIC AND REGULAR MAIL

Nicholas M. Ward-Willis
Keane & Beane P.C.
445 Hamilton Avenue, Suite 1500
White Plains, NY 10601
nward-willis@kblaw.com

Victor J. Cannistra
Cannistra Realty LLC
43 Kensico Drive, 2nd Floor
Mount Kisco, NY 10549-1408
victorc@cannistracpa.com

Re: Canadian Radium and Uranium Superfund Site
Mount Kisco, Westchester County, New York

Dear Mr. Ward-Willis and Mr. Cannistra,

Please see the enclosed Administrative Order, Index Number CERCLA-02-2019-2009, issued to Cannistra Realty LLC under Section 104(e)(5) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. § 9604(e)(5).

Thank you,

A handwritten signature in black ink, appearing to read "Margo B. Ludmer".

Margo B. Ludmer
Assistant Regional Counsel
New York / Caribbean Superfund Branch
EPA Region 2, Office of Regional Counsel

Enclosure

KEANE & BEANE P.C.
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March 18, 2019

VIA EMAIL *ludmer.margo@epa.gov*

Margo B. Ludmer, Esq.
Assistant Regional Counsel
New York/Caribbean Superfund Branch
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2

NICHOLAS M. WARD-WILLIS
Principal Member
nward-willis@kblaw.com
Also Admitted in CT

Re: Canadian Radium and Uranium Site

Dear Margo:

On behalf of Cannistra Realty, LLC, we are requesting an opportunity to confer with the EPA regarding the March 12, 2019 Administrative Order directing compliance with requests for access, Index No. CERCLA-02-2019-2009. Our clients request this opportunity to confer with EPA on all matters pertinent to the Order, including the Order's Conclusions of Law. Our client's dispute that its requests regarding EPA's access to our client's property hinder or impede EPA's access. As previously detailed in our communications, our clients are agreeable to allowing EPA access to the site, but only in a manner that is reasonable and safe under the circumstances.

As you are aware, our clients are accountants and typical of all accountants, they are fully engaged for the next month until after tax season. Therefore, they respectfully request the conference be held at a mutually agreeable time after April 16, 2019. We submit that this request for a meeting in no less than three weeks is reasonable under all circumstances.

Kindly advise of a proposed date, time and location as well as who will be present at the conference. Thank you for your attention.

Very truly yours,



Nicholas M. Ward-Willis

NMW/sj

cc: Cannistra Realty, LLC
Joel H. Sachs, Esq.

Ward-Willis, Nicholas M.

From: Ludmer, Margo <ludmer.margo@epa.gov>
Sent: Tuesday, March 19, 2019 2:26 PM
To: Ward-Willis, Nicholas M.
Subject: RE: Canadian Radium and Uranium Site

Nick,

EPA is in receipt of your March 18, 2019, letter requesting a conference with EPA on the access order to Cannistra Realty LLC. EPA does not agree to the delay of four weeks for the conference, which may be held by phone, if preferred by your client. Please let us know your client's and/or your availability for a conference next week. The neutral officiant for the meeting will be Jerry Burke, Assistant Regional Counsel in the New Jersey Superfund Branch of the Region 2 Office of Regional Counsel.

Thank you,

Margo

Margo B. Ludmer
Assistant Regional Counsel
New York/Caribbean Superfund Branch
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 2
(212) 637-3187

From: Jones, Sharon S. <SJones@kblaw.com>
Sent: Monday, March 18, 2019 3:53 PM
To: Ludmer, Margo <ludmer.margo@epa.gov>
Subject: FW: Canadian Radium and Uranium Site

On behalf of Nicholas Ward-Willis, Esq., please see the attached.

Sharon S. Jones
Administrative Assistant

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